

**Moving Beyond Funder Driven Outcomes
or How I Learned to Stop Worrying and Love Outcome Measures**

*Submitted by Robert A. Nasdor, Executive Director
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Executive Summary

Legal Assistance Corporation of Central Massachusetts has developed a new approach to outcome measurement. What began as a response to a funder mandate ultimately resulted in the development of a mission driven approach to outcome measurement which focuses on the ways in which our legal advocacy has improved our clients' lives. For us, outcome measurement is ultimately the method by which we determine that we are fulfilling our mission.

Through this process, we have identified four different client outcomes that drive our program's legal advocacy: 1) Increase housing stability; 2) Improve financial security; 3) Enhance client dignity & personal safety; and 4) Expand healthcare access. Recognizing the inherent difficulty in directly measuring the impact of a legal result on clients' lives, we developed an outcome measurement matrix for each of our four program outcomes. For each outcome we have specified the indicators which will tend to show that a particular outcome has been achieved for the client. We require our attorneys and paralegal advocates to document that at least two indicators of a favorable outcome are present in order to record a favorable outcome. Absent two indicators, the outcome is not considered favorable. By focusing on the results we achieve for our clients rather than the numbers of cases handled, we have been able to raise the quality of the program's legal advocacy through the development of standards which our advocates use to determine whether a particular indicator has been attained.

For each of these outcomes, we also included a planning indicator in which we require advocates to document their efforts to: 1) work with the family to avoid a recurrence of the legal problem; 2) look at any other legal issues having an impact on that particular outcome and assist the client to maximize other available resources; 3) make appropriate referrals to other agencies who can assist the client with other problems to help maintain their stability; and, 4) empower clients to better advocate for themselves and others in the community. Action steps have also been developed which guide the advocates in their legal work.

Through the use of indicators, standards and action steps, we have been able to gauge the effectiveness of our program as a whole by offering a prediction of the likely impact of our legal representation on our clients' lives.

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Introduction

Outcome measures.

The mere utterance of these words can cause even the most dedicated legal services advocate to shudder. Legal services programs need to approach outcome measurement from a new perspective. Rather than approaching outcomes from a funder's perspective which is more focused on the numbers of clients served, legal services programs should approach outcomes from a mission driven perspective. Over the past several years, we have been working at the Legal Assistance Corporation of Central Massachusetts to develop a new approach to outcome measurement which focuses on the program's mission to effectuate changes in our clients' lives through legal advocacy.

Funder Driven Outcomes

When I arrived at the Legal Assistance Corporation of Central Massachusetts seven years ago, the United Way of Central Massachusetts, which had been providing the organization with \$130,000 annually, was threatening to withhold its funding because the agency was refusing to provide the funder with outcome measures. After several decades of supporting the same programs at the same agencies, the United Way decided that it would require its funded agencies to document how their services were improving the lives of their clients. The United Way took this step in response to what it saw as a disturbing trend: its workplace campaign was in decline and its leadership givers were questioning whether their contributions were making a difference. Human service agencies, including legal services programs, were accustomed to measuring the effectiveness of their work by counting the number of clients they served in a particular year. We told the United Way and other funders how many cases we would open and close, how many of these cases would involve full representation as opposed to brief service, how many would involve victims of domestic violence, how many divorces we would obtain for our clients and so forth. What we weren't willing to do, however, was tell the funder whether our clients' lives had improved as a result of the legal services we provided. Our reasoning was not altogether irrational. We felt that as attorneys, the only thing that we should be expected to measure was the outcome that we achieved in court. Long-term results in the case were also impossible to measure, we concluded, because there were too many factors that were outside of our control such as whether a victim of domestic violence reconciled with her batterer or entered into another abusive relationship subsequent to our representation.

In order to retain this important source of funding, we agreed to develop outcome measures for our family law work. Initially, we developed a set of subjective outcome measures such as whether, in our domestic violence cases, our clients felt safer, whether they felt more financially

independent, and whether they felt more empowered as a result of our legal representation. In order to measure these outcomes, we developed a questionnaire and surveyed our clients six months after the representation was concluded. Given the transience of many of our clients and their frequent lack of a telephone, we found it difficult and burdensome to complete the questionnaires, and the data we obtained was of dubious value. We were unconvinced that measuring how our clients felt at the end of the case was an accurate way to measure the results we had achieved for the client. The fact that our client felt safer, more financially independent, or more empowered seemed important, but whether those factors were a proxy for measuring the effectiveness of our work was unclear.

Notwithstanding our skepticism, we believed that how our clients felt following the representation was of greater importance than merely measuring client satisfaction because frequently clients are satisfied with the representation they have received even though there is no meaningful improvement in their circumstances. In other cases, we felt it would be unfair to measure client satisfaction because, in some situations, our clients might not be satisfied with the result even though the result that we achieved was the best result that could have been reasonably achieved in that case. Take, for example, a client who is given advice on how to represent herself in an eviction case. The client may be satisfied with the legal representation because she believes that she adequately understood her legal rights and was able to tell her side of the story to the judge. If she is unsuccessful, it may be that she failed to properly present her defense or press her counterclaims, or, it may simply be the case that she had no legal defense to the eviction. Alternately, the client may be dissatisfied with the legal representation because she was evicted despite the fact that she had no legal defense. In either event, client satisfaction is not a meaningful measure of the results that have been achieved in the case.

Despite the burdensome nature and dubious value of our outcome measures, the United Way was delighted that our agency had finally embraced this outcome measurement model. The staff was not. They felt that documenting outcomes was merely a funder requirement and that it wasn't why they had become legal services lawyers. (They also felt that way about closing their cases, but that's a separate problem.) The staff was half right. Documenting outcomes was funder driven, and for every funder, we promised different outcomes. Most funders were satisfied with quantitative reports documenting the number of cases handled on behalf of a particular target population or in a particular area of law. There was also a level of frustration among advocates because some advocates were more burdened with measuring outcomes than others due to differing funder requirements.

Where I differed with the staff, however, was in their view that measuring outcomes had nothing to do with why they had become legal services lawyers. While our staff has a passionate belief in our mission, most fail to see any connection between the mission and outcome measurement. They chose poverty law rather than corporate law because they want to make a difference in their clients' lives. They believe that "equal justice" isn't merely words chiseled on a courthouse; rather it is vital for their clients who are struggling to keep a roof over their heads and provide a safe environment for themselves and their children. If asked, which they rarely if ever are, how they know whether they are making a difference, they would be hard pressed to say other than by relying on anecdotal success stories which they seem hard pressed to recall when asked to report

on them for program funders. ***Outcome measurement is ultimately the method by which we determine that we are fulfilling our mission.***

Moving Beyond Funder Driven Outcomes

Outcome measurement needs to be driven from the client perspective, rather than the funder perspective. In an effort to develop a client driven as opposed to a funder driven approach to outcome measurement, we began by looking at the ways in which we are working to improve our clients' lives. In our family law unit, we are working to increase our clients' physical safety and personal dignity through our representation of domestic violence survivors, but we are also working to achieve greater financial security for the family by obtaining child support, greater housing stability for the family by removing the domestic abuser from their home, and improved healthcare access for the family by obtaining medical coverage from their former spouse as part of the divorce. Similarly, in our housing unit, we are working to achieve housing stability for our clients through our eviction defense work, but we are also working to enhance our clients' personal dignity through our fair housing advocacy on behalf of victims of housing discrimination.

By looking at our cases from a client perspective, we are able to identify four program-wide outcomes as follows:

- ❑ **Housing Stability:** Defense of eviction actions from public, private and subsidized housing, denial of admission to public housing, housing conditions/receiverships, housing discrimination, utility shutoffs, mortgage foreclosures and the denial/termination of rental assistance; domestic violence restraining orders excluding abusers from the home; emergency shelter and transitional housing placements.
- ❑ **Financial Security:** Terminations, denials or reductions of any form of government benefit, including Social Security, SSI, TAFDC, EAEDC, Food Stamps and fuel assistance; consumer protection and unfair debt collection practices; financial exploitation of elders; unemployment benefits and employment discrimination, wage and hour claims; child support/alimony, equitable distribution of assets and retirement income in family law cases.
- ❑ **Healthcare Access:** MassHealth/Medicare coverage including access to medically necessary treatment and equipment, mental health parity, medical transportation; nursing and rest home cases including improper discharges from nursing homes; special education cases having an impact on child health ; protection and advocacy.
- ❑ **Dignity & Safety:** Assistance to domestic violence survivors including temporary and permanent restraining orders, divorce, custody, visitation denial/supervision, VAWA self-petitions; prevention of elder abuse, defense of guardianship and conservatorship petitions; civil rights including discrimination in housing, employment and public accommodations.

Having identified the ways in which various case types have an impact on clients' lives, our next task was to determine the method by which we would measure the impact. Could we presume from the fact that we won a housing case, for example, that our client had achieved housing stability as a result of our legal advocacy? If only we could. Legal services attorneys are all too familiar with clients who return to housing court time and again, who due to their poverty or other factors never achieve any real measure of housing stability for their family. And what exactly does it mean when we say that we "won" a particular case? Retaining the tenancy? Providing the client with significant additional time before the client needs to move? Preserving a rental subsidy? Often, the definition of what it means to win will vary depending on the circumstances in the case. Ultimately, we concluded that we lacked the resources to directly measure our client outcomes in every case. Instead of measuring outcomes directly, we developed a model that provided us with a mechanism for indirectly measuring outcomes.

Through the use of indicators, standards and action steps, we have been able to gauge the effectiveness of our program as a whole by offering a prediction of the likely impact of our legal representation on our clients' lives.

For each of our four program outcomes -- housing stability, financial security, healthcare access and dignity & safety -- we undertook to list the set of indicators which would tend to show that a successful outcome had been achieved in a particular case. In a contested custody case involving a domestic violence survivor, for example, we looked at a variety of factors including: 1) whether our client was able to obtain a permanent restraining order; 2) whether our client obtained a divorce from her batterer; 3) whether our client was able to obtain sole custody of her children; and 4) whether our client was able to obtain an order providing for supervised or no visitation by the batterer. All of these factors, we feel, are indicative of our desired outcome in the case, namely increasing our client's physical safety. Likewise, in an eviction case, we looked at a variety of factors which have an impact on housing stability including: 1) whether the client was able to retain possession of the apartment, or in the alternative, whether the client was able to obtain a significant amount of time before moving; 2) whether the client was able to retain public or subsidized housing; and 3) whether the client was able to obtain an order which improved her living conditions and/or obtain a waiver of rent due the substandard housing conditions. ***In each case, we look to the presence of at least two indicators of a particular outcome before concluding that a favorable outcome would likely result because we believe that the presence of multiple indicators is a better predictor of a favorable outcome than a single indicator.***

In each of our four program outcome areas, we also included a planning indicator because we felt that it was more likely that an outcome would be achieved if our attorneys and paralegal advocates engaged in a meaningful planning process with their clients. Our attorneys and paralegals making use of the planning indicator are required to show that they discussed with their client the circumstances which resulted in the problem for which they sought legal representation in an effort to avoid a recurrence of the problem. They are also required to explore other unidentified legal problems which may have an impact on a particular outcome such as whether a person seeking assistance in obtaining unemployment benefits is receiving the food stamps or child support to which he may be entitled. There may be multiple factors which are

contributing to the client's lack of financial security and good legal advocacy would result in a more holistic approach to outcome measurement. We also require our advocates making use of the planning indicator to make appropriate referrals to social service providers and others in the community who can bring additional resources to bear on the problem. We also explore with the clients strategies to empower them so that they can be effective advocates for themselves and their children in the future.

Developing outcome indicators will only be effective, however, if there are clear standards which advocates use to determine whether the indicator is present. In the eviction defense case where the tenant has obtained significant additional time before being required to move, standards must be developed to determine the amount of time which is sufficient to show that the indicator is present. One month? Three months? Six months? The development of standards can also be a useful tool for communicating the program's expectations to advocates with regard to the results for which they should be striving in a particular case. We have also developed action steps which serve as a guide to advocates on activities which will lead to the attainment of an individual indicator.

In every case involving full legal representation as opposed to advice and brief service, attorneys and paralegal advocates are required to list their outcome indicators in the ProLaw case management system at the time of case closing. They are also required to document their planning when making use of the planning indicator on a separate form which is attached to the case file. When the supervisor closes the case, the outcome indicators and planning documentation form are reviewed for accuracy and completeness. For tracking purposes, we are able to run reports which show the number of cases in which at least two outcome indicators have been recorded for a particular outcome. By comparing this number to the number of cases where the advocacy was directed at achieving a particular outcome, we are able to gauge the effectiveness of our legal advocacy on our clients' lives.

Recommendations

1. LSC should require that its funded programs develop an outcome measurement methodology over a three year period. During the first year, legal services programs should actively work to develop a shared understanding among board and staff of the relationship between outcome measurement and the program's mission. In order for outcome measurement to be meaningful, there must be significant buy-in by everyone in the program. At the conclusion of this process, programs should be required to identify 4-6 program outcomes which reflect the ways in which the program is having an impact on its clients' lives. Program outcomes should be developed by the programs themselves rather than by LSC in order to encourage local program ownership of the process.
2. In the second year of the outcome measurement planning process, LSC grantees should work to develop an outcome measurement matrix in which they identify the indicators, standards and action steps required to measure each of the program outcomes identified in the prior year. Local programs rather than LSC should develop the indicators because they are in a

better position to identify these factors.

3. In the third year of the planning process, local programs should be required to develop baseline data. Using the outcome measurement matrix developed in the prior year, LSC grantees should document the attainment of each of the indicators according to the standards that have been developed. It is important to note that as the outcome matrix is dynamic, programs should be encouraged to make appropriate refinements in order to accurately measure the achievement of the desired outcome.

HOUSING STABILITY OUTCOME		
Indicators	Standards	Action Steps
Combat Discrimination	Favorable court verdict; settlement in which landlord compensates victim and/or agrees to discontinue unlawful practices, obtain training, or affirmatively promote fair housing	Represent victims of housing discrimination in negotiation, at the MCAD or in state or federal court
Improve Living Conditions	Court orders landlord to make repairs; landlord agrees to settlement promising to make repairs and/or compensate tenant for substandard conditions	Represent tenants negotiation w/ landlord or in eviction proceedings; bring affirmative litigation on their behalf
Obtain/Retain Affordable Housing	Court decision, hearing decision or settlement enabling tenant to obtain new or preserve affordable housing; obtain/preserve Section 8, MRVP or other rent subsidy	Represent tenant in negotiation or administrative/ judicial forum to enable tenant to secure public or subsidized housing
Obtain Emergency Shelter	Administrative decision or settlement requiring DTA to provide emergency assistance for shelter placement	Represent homeless family in negotiation or at a fair hearing to secure emergency assistance for the family
Plan for Future Housing Stability	Client and advocate jointly develop plan to avoid recurrence of legal problem and/or provide for long term housing stability	Educate client on tenant obligations; refer to rent subsidy and home ownership programs; educate on homestead declaration
Preserve Home Ownership	Retain ownership of home through settlement or court decision	Represent homeowner facing loss of home due to mortgage foreclosure or family law matter in order to preserve home ownership
Retain Possession of Tenancy	Summary process action resolved with tenant retaining possession	Represent tenant in eviction proceeding; negotiate with landlord to avoid legal action
Secure Additional Time	Tenant permitted to remain in apartment for at least three months	Represent tenant facing eviction or homeowner facing mortgage foreclosure in negotiation or litigation with landlord/mortgagor
Waive Rent Arrears	Secure settlement or judgment awarding at least 50 percent of the rent arrears based on an affirmative defense or counterclaim	Represent tenant in eviction proceeding; negotiate with landlord to avoid legal action
Exclude Domestic Abuser From Home	Court order preventing domestic abuser from returning to client's home	Represent victim of domestic violence or elder abuse is a family law matter or restraining order

FINANCIAL SECURITY OUTCOME		
Indicators	Standards	Action Steps
Discharge Debt	Creditor ordered or agrees to discharge debt and/or compensate client for unlawful practices; bankruptcy court discharges debt; probate court orders spouse to pay debts	Represent client in consumer claim against creditor based on unfair debt collection practices or consumer protection statute through negotiation or litigation; represent client in bankruptcy; representation in divorce involving assignment of debts
Obtain/Maintain Benefits	Secure public benefits; maintain public benefits for client threatened with a reduction or termination of benefits	Represent client seeking to obtain/maintain TAFDC, EAEDC, food stamps, SSI, SSDI, unemployment, medicare, Mass Health through negotiation or at an administrative or other forum
Obtain/Maintain Earned Income	Secure/retain employment; obtain compensation for discrimination or wage and hour law violation through settlement or court decision	Represent client in employment matter through negotiation or litigation in an administrative or other forum
Obtain/Maintain Retirement Income	Secure pension benefits, social security, annuity or other retirement income through settlement or court decision	Represent client in divorce to obtain retirement income; pension rights cases; elder financial abuse related to social security or pension income; obtain/maintain social security retirement
Obtain/Maintain Support/Alimony	Secure financial support for household through settlement or court decision	Represent client in family law case seeking child support or alimony
Plan for Future Financial Security	Client and advocate jointly develop plan to avoid recurrence of legal problem and/or provide for long term financial security	Educate client on public benefit program obligations and time limitations; refer to other public benefit and job training programs to maximize income; educate on EITC, credit rights/obligations
Secure Assets	Secure financial assets, real property or other personal property through settlement or court decision	Represent client in family law action involving assets; representation of elders subject to financial abuse of assets; partition of real property; lawsuit to secure rights to real property

DIGNITY & SAFETY OUTCOME		
Indicators	Standards	Action Steps
Deter Future Unlawful Practices	Secure judgment or settlement requiring training/education, policy revision, recordkeeping & reporting requirements, or affirmative advertising	Represent client in a case involving discrimination in employment, housing, public accommodations, special education or consumer protection
Increase Physical Safety	Obtain/Maintain restraining order post ex parte hearing; obtain/maintain permanent domestic relations restraining order; prevent issuance of retaliatory restraining order; secure change of identity	Represent victims of domestic violence, elder abuse and other civil rights violations where physical safety is at risk
Plan for Future Dignity and Safety	Client and advocate jointly develop plan to avoid future loss of dignity or safety	Work with client to identify needed social services; educate client on legal rights to safety and dignity
Remove/Prevent Guardianship	Secure removal of guardian or prevent imposition of guardianship of an elder or disabled adult	Represent elder or disabled adult in guardianship proceeding to help client maintain personal autonomy
Secure Divorce From Batterer	Secure divorce judgment against batterer	Represent domestic violence victim in divorce action
Secure/Maintain Safe Visitation	Secure interim order or final judgment restricting visitation by abusive parent	Represent domestic violence victims in probate matter in which client is seeking to limit batterers visitation with child
Secure/Maintain Sole Physical Custody	Court judgment or settlement awarding sole physical custody to client where adverse party contests custody	Represent domestic violence victims in probate matter where child custody is contested
Vindicate Personal Rights & Dignity	Secure judgment or settlement providing financial compensation, housing, employment, or educational services to redress unlawful practices	Represent client in a case involving discrimination in employment, housing, public accommodations, special education or consumer protection

HEALTHCARE ACCESS OUTCOME		
Indicators	Standards	Action Steps
Obtain Medical Equipment	Secure payment for medical equipment	Represent client in claim against DMA, insurer, or medicare by negotiation, court hearing, or in an administrative forum
Obtain Medical Transportation	Secure payment for medical transportation	Represented client at DMA hearing, court appearance or negotiation
Obtain/Maintain Healthcare Coverage	Secure Mass Health, medicare, children's medical security plan, private insurance coverage or veterans healthcare coverage	Represent client in court or administrative forum to secure healthcare benefits coverage
Obtain/Maintain Healthcare Services	Secure approval for a medical procedure or other healthcare services	Represent client in claim against DMA, insurer, medicare or for free care, or school district by negotiation, court hearing, or in an administrative forum
Plan for Future Healthcare Needs	Client and advocate jointly develop plan to avoid recurrence of legal problem and/or provide for long-term healthcare needs	Educate client on healthcare rights and obligations
Obtain/Maintain Nursing/Rest Home	Administrative agency, court decision, or negotiated agreement permitting occupant to obtain/retain residency	Represent nursing/rest home resident in discharge hearing or negotiation; represent client in DMA, DTA or SSA hearing/negotiation